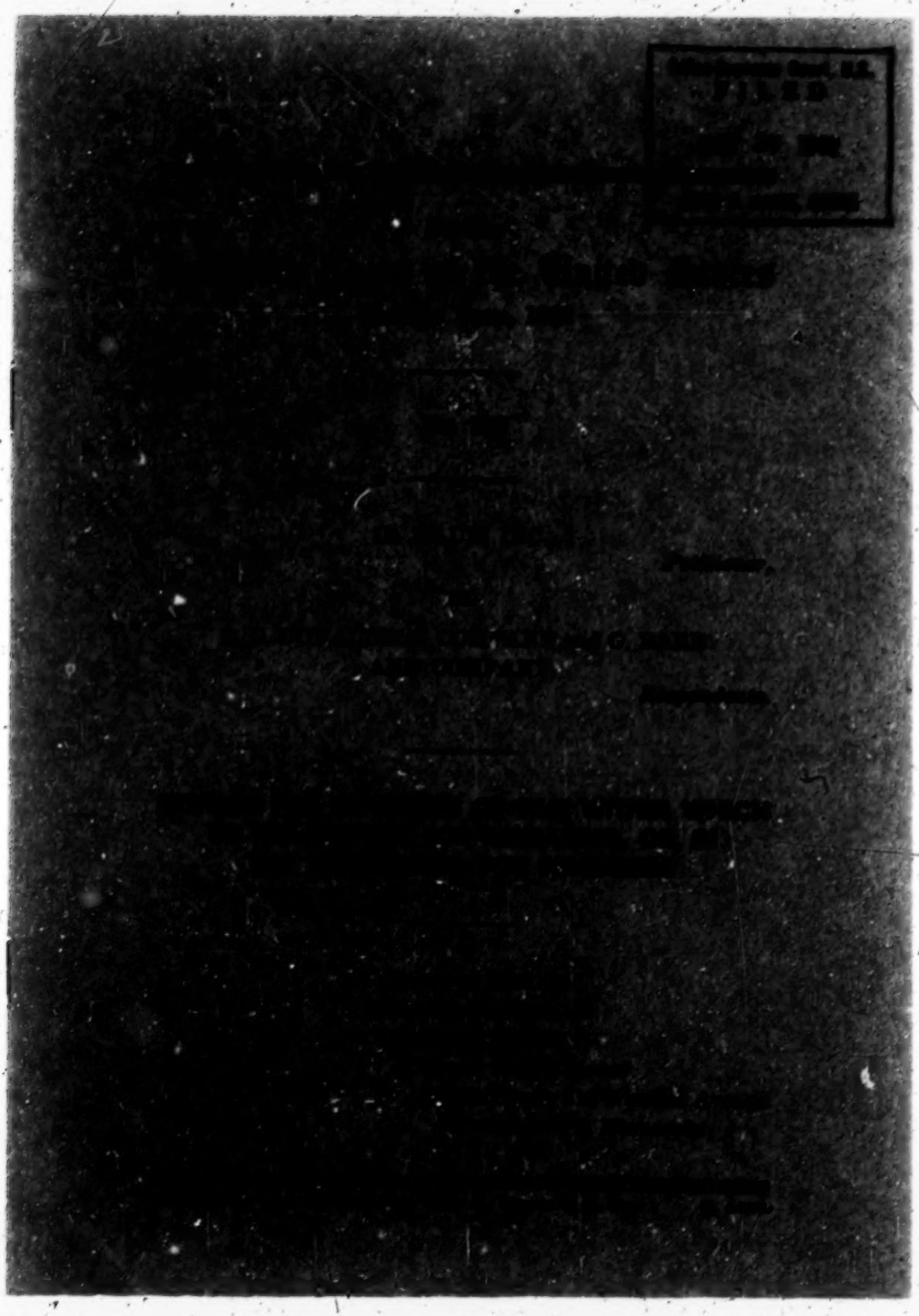


In The

Supreme Court of the United States

October Term, 1962

No. 160

LA MAUR, INC.,

Petitioner,

vs.

L. S. DONALDSON COMPANY and G. BARR AND COMPANY,

Respondents.

PETITION FOR EXTENSION OF TIME WITHIN WHICH TO FILE PETITION FOR REHEARING, OR, IN THE ALTERNATIVE, FOR REHEARING

This petition is made solely upon the ground that, on October 23, 1962, petitioner filed suit in the United States District Court for the Northern District of Illinois, Eastern Division, for infringement of the reissue of the patent here in suit. The title of the newly filed case is "La Maur, Inc., Plaintiff, vs. DeMert & Dougherty, Inc., and Aeropak N.J. Incorporated, Defendants," Civil Action No. 62C1972 in said District Court. Since the first nine of the eleven claims in the reissue patent are identical with the nine claims of the original patent which was held invalid in the present case by the United States Court of Appeals for the Eighth Circuit, the validity of these same claims will now be passed upon in the Seventh Circuit. In the event that petitioner should prevail in the newly filed case in the Court of Appeals for the Seventh Circuit, as it

did in the District Court in the present case, there would then be such a conflict of decision that review by this Court could be expected.

Accordingly, petitioner prays that its time to petition for a rehearing of this Court's decision on October 8, 1962 denying the petition for certiorari in the present case be enlarged, pursuant to Rule 58 of this Court, until such time as the newly filed case in the Seventh Circuit is decided.

If petitioner's request for such an enlargement of time be denied, then petitioner now prays for a rehearing of this Court's said decision of October 8, 1962, upon the ground of the pendency of the action in the Seventh Circuit.

This petition is filed upon the authority of

U. S. v. Ohio Power Co., 353 U.S. 98.

The undersigned counsel hereby certify that the foregoing petition is presented in good faith and not for delay, and that the petition is restricted to the grounds specified therein.

Respectfully submitted,

BENEDICT DEINARD
HAROLD D. FIELD, JR.
MELVIN H. SIEGEL
Counsel for Petitioner
Tenth Floor, 512 Nicollet Avenue
Minneapolis 2, Minnesota

Dated: October 24, 1962